

Amendments to Senate Bill No. 78  
1st Reading Copy

Requested by Senator Lane Larson

For the Senate Fish and Game Committee

Prepared by Krista Lee Evans  
January 18, 2007 (10:28am)

1. Title, line 4.

**Strike:** "REASONABLE AND SAFE"

2. Title, line 6.

**Strike:** "THE ERECTION OF"

**Insert:** "THE OPTION TO ERECT"

**Following:** "FENCE"

**Insert:** "WITH IMPROVED ACCESS"

**Strike:** "PUBLIC"

**Insert:** "COUNTY ROAD"

**Following:** "RIGHT-OF-WAY"

**Insert:** "IF IT IS ABUTTED OR ATTACHED"

3. Title, line 8.

**Strike:** "PUBLIC"

**Insert:** "COUNTY ROAD"

**Following:** "RIGHT-OF-WAY"

**Insert:** "WHEN THE FENCES ARE ABUTTED OR ATTACHED"

4. Title, line 9.

**Strike:** "DO NOT PROVIDE REASONABLE AND SAFE"

**Insert:** "PREVENT"

5. Title, line 11.

**Following:** "CIRCUMSTANCES;"

**Insert:** "AUTHORIZING THE ISSUANCE OF PERMITS FOR A FENCE TO  
ENCROACH IN A COUNTY ROAD RIGHT-OF-WAY; PROVIDING FOR  
LANDOWNER IMMUNITY;"

6. Page 1.

**Following:** line 19

**Insert:** "(1) "Access" means access to streams and rivers for  
uses as provided in Title 23, chapter 2, part 3."

**Renumber:** subsequent subsections

7. Page 1.

**Following:** line 21

**Insert:** "(4) "Improved access" means the erection, repair, or  
replacement of a portion of a fence that provides public

access to a waterway, including but not limited to gates, stiles, polyvinyl chloride (PVC) overwire, or other methods designed to enhance public access as provided for in [section 3(3)]."

**Renumber:** subsequent subsections

8. Page 1, line 22.

**Following:** "land"

**Insert:** "subject to a county road right-of-way easement"

9. Page 1, line 23.

**Strike:** "Reasonable and safe public access"

**Insert:** "Prevents public access"

10. Page 1, line 24 through line 26.

**Strike:** "does not make access" on line 24 through "river" on line 26

**Insert:** "creates a barrier or makes access to rivers and streams more difficult"

11. Page 2, line 1.

**Following:** "7-14-2112"

**Insert:** "and acquired pursuant to 7-14-2107"

12. Page 2, line 4.

**Following:** "connected."

**Insert:** "The standard width of a right-of-way is provided in 7-14-2112, and a right-of-way is acquired pursuant to 7-14-2107."

13. Page 2, line 5 through line 6.

**Strike:** ", in consultation" on line 5 through "department," on line 6

**Following:** "may" on line 6

**Insert:** ", by a reasonable exercise of the governing body's police power,"

14. Page 2, line 6.

**Following:** "access for"

**Insert:** "purposes of"

**Following:** "safety."

**Insert:** "The board may consult with the department on conditions of access."

15. Page 2, line 9.

**Insert:** "(6) [Sections 1 through 3] may not be construed to require the county to construct or maintain areas for parking, paths, walkways, steps, ramps, or other accommodations in the county's reasonable exercise of its

police power as provided in subsection (4), but the county may do so if the county chooses."

16. Page 2, line 11.

**Following:** "reimbursement"

**Insert:** "for improved access"

17. Page 2, line 13.

**Following:** "81-4-101,"

**Strike:** "located"

**Following:** "located in the"

**Strike:** "public"

**Insert:** "county road"

**Following:** "right-of-way"

**Insert:** "by abutting or attaching the fence"

18. Page 2.

**Following:** line 14

**Insert:** "(b)(i) The board may, in its discretion, issue a permit to a requesting landowner in accordance with subsection (1)(a). The permit must be recorded with the clerk and recorder of the county.

(ii) The permit issued by the board may impose reasonable conditions as long as the fence meets the definition of a legal fence provided in 81-4-101 or provides improved access as provided in subsection (3) of this section."

**Renumber:** subsequent subsection

19. Page 2, line 15.

**Following:** "fence that is"

**Strike:** "located"

**Insert:** "permitted"

**Strike:** "public"

**Insert:** "county road"

**Following:** "right-of-way"

**Insert:** "and that is abutted or attached"

20. Page 2, line 16.

**Strike:** "deny reasonable and safe"

**Insert:** "prevent"

21. Page 2, line 17.

**Following:** "abutment"

**Strike:** ", and the"

**Insert:** ". The"

**Strike:** "reasonable and safe public"

22. Page 2, line 18.

**Following:** "fence."

**Insert:** "Where necessary, this may be accomplished by improved access."

23. Page 2, line 19.

**Strike:** "and the department may"

**Insert:** "or county road supervisor, as provided for in 7-14-2122, shall"

**Following:** "fence"

**Insert:** "that is"

**Strike:** "public"

**Insert:** "county road"

**Following:** "right-of-way"

**Insert:** "and that is abutted or attached"

24. Page 2, line 21.

**Strike:** "impedes reasonable and safe"

**Insert:** "prevents"

**Following:** "stream"

**Insert:** "or river"

25. Page 2, line 22.

**Strike:** "and the department determine"

**Insert:** "determines"

26. Page 2, line 23.

**Strike:** "impedes reasonable and safe"

**Insert:** "prevents"

27. Page 2, line 23 through line 24.

**Strike:** "and the department" on line 23 through "may" on line 24

**Insert:** "shall"

28. Page 2, line 25.

**Strike:** the first "and the department"

**Insert:** ", not to exceed 1 year"

**Strike:** the second "and the department"

29. Page 2, line 26.

**Following:** "(c)"

**Insert:** "(i)"

**Strike:** "and the department may"

**Insert:** "shall"

30. Page 2, line 27.

**Strike:** "does not provide reasonable and safe"

**Insert:** "prevents"

31. Page 2.

**Following:** line 28

**Insert:** "(ii) Following notification by certified mail to the landowner at the address last shown on property tax records of the county, the landowner shall reimburse the county for the costs of removal or alteration of a fence in accordance with subsection (2)(c)(i). If the reimbursement is not made prior to July 1 of the year following the year in which the notice was received, the cost becomes a lien upon the landowner's property and upon notification by the board of the nonpayment of the costs, the county treasurer shall collect the assessment in the same manner and at the same time as taxes for county purposes are collected."

32. Page 2, line 30.

**Strike:** "public"

**Insert:** "county road"

33. Page 3, line 1.

**Following:** "If a landowner"

**Insert:** "provides improved access as provided in [sections 1 through 3] and"

34. Page 3, line 3.

**Strike:** "reasonable and safe public"

**Insert:** "improved"

35. Page 3, line 3 through line 4.

**Following:** "waterway"

**Strike:** ", " on line 3 through "access" on line 4

36. Page 3, line 5.

**Following:** "placement of a"

**Insert:** "legal"

37. Page 3, line 5 through line 6.

**Strike:** "so that it" on line 5 through "access" on line 6

38. Page 3, line 6.

**Following:** "Upon"

**Insert:** "determining that a portion of the fence provides improved access and"

39. Page 3, line 7.

**Following:** "landowner"

**Insert:** "exclusively for the portion of the fence that provides improved access"

40. Page 3, line 8.

**Following:** "landowner"

**Strike:** "shall obtain"

**Insert:** "who has obtained a permit issued in accordance with subsection (1) and who provides a copy of the permit to the department must be given"

41. Page 3, line 9.

**Strike:** "before"

**Insert:** "for"

**Strike:** "reasonable and safe"

**Insert:** "improved"

42. Page 3, line 13.

**Strike:** "and the department"

43. Page 3, line 13 through line 14.

**Strike:** "impedes" on line 13 through "safe" on line 14

**Insert:** "prevents"

44. Page 3, line 16.

**Following:** "landowner"

**Insert:** ", the department,"

45. Page 3, line 17.

**Strike:** "department"

**Insert:** "board"

46. Page 3, line 20.

**Strike:** "a person,"

**Strike:** "the board"

**Insert:** "any other person"

47. Page 3, line 21 through line 22.

**Strike:** ":" on line 21 through "either" on line 22

**Following:** "landowner" on line 22

**Insert:** ", the department,"

**Following:** "any"

**Insert:** "other"

**Strike:** "board and the department's" on line 22

**Insert:** "board's"

48. Page 3, line 23.

**Following:** "fence"

**Strike:** "impedes reasonable and safe"

**Insert:** "prevents"

**Following:** "access"

**Insert:** "or whether the conditions of that access are impaired by"

the fence"

49. Page 3, line 24.

**Strike:** "; or"

**Insert:** "."

50. Page 3, line 25 through line 26.

**Strike:** subsection (b) in its entirety

51. Page 3, line 29.

**Strike:** "judicial district"

**Insert:** "county"

52. Page 4, line 2 through line 3.

**Strike:** "If the board" on line 2 through "vote." on line 3

53. Page 4, line 5.

**Strike:** "impede reasonable and safe"

**Insert:** "prevent"

54. Page 4, line 14.

**Following:** "agent,"

**Strike:** "or"

**Following:** "tenant"

**Insert:** ", or the county"

55. Page 4.

**Following:** line 14

**Following:** "."

**Insert:** "A landowner, the landowner's agent, the landowner's tenant, or the county is not liable for the condition of the right-of-way providing access."

56. Page 4, line 15.

**Following:** "agent,"

**Strike:** "or"

**Following:** "tenant"

**Insert:** ", or the county"

57. Page 4, line 19.

**Strike:** "impedes reasonable and safe"

**Insert:** "prevents"

**Following:** "public access"

**Insert:** "in accordance with this section"

58. Page 4, line 20.

**Strike:** "reasonable and safe"

59. Page 4, line 24.

Strike: "(a)"

Following: "county"

Strike: "roads, except"

Following: "bridges,"

Insert: "road rights-of-way, including a right-of-way adjacent to  
a bridge that is part of a county road and except for"

60. Page 4, line 27 through line 28.

Strike: subsection (b) in its entirety

61. Page 4, line 30.

Strike: "Nothing in this"

Insert: "This"

Following: "may"

Insert: "not"

62. Page 5, line 11.

Strike: "located"

Insert: "permitted"

Strike: "public"

Insert: "county road"

Following: "right-of-way"

Insert: "when it is abutted or attached"

63. Page 5, line 12.

Strike: "there is reasonable and safe"

Insert: "the fence does not prevent"

Following: "access"

Insert: "or if it provides improved access"

- END -